

Mr. Dan Schorr
3113 Woodley Road, NW
Washington, D.C. 20008

8/8/86

Dear Mr. Schorr,

Although that of which I write, at least by the standards of my reporting youth, would have been news, I do not hide other interests, personal and public. And although I think you'll remember me, in the event you do not your letter to me from the days of your own travail may remind you and it also serves to reflect that the interests I now seek to defend are not new for me and not always personal.

You may remember, as I think I do, that I wrote you on several occasions criticizing some of your theoretical writings about the JFK assassination. That is what distinguishes me from all the others known as "critics" of the official investigations of the political assassinations. Mine from the first (and my first of seven books was the first) has been a study of how our basic institutions worked or failed to work in those days of great crisis and since then. In extent this work takes up about 60 file cabinets, all, without a y quid pro quo, to be a university archive, already begun. I do not hide my pride that with all this great amount I've published and an enormity in FOIA lawsuit affidavits, where I was, of course, subject to prosecution if I erred, nobody has ever shown a significant error in any of this.

In part because they have never been able to fault me, and I think in major part, in part because the investigatory files exemption of FOIA was amended in 1974 because of me, and for other reasons not all of which are clear, the FBI and some in the DJ have been out to "get" me for years. Civil Division once had what was known as the "get Weisberg" crew, six lawyers and I don't know how many others. Some of the stuff the FBI made up and distributed widely, from the White House down, is nazi-like and is like much of what was forced into the public domain because I persisted and the Act was amended to make that possible. (A religious gathering after the high holy days was ~~and~~ actually said to be the annual celebration of the Russian Revolution my wife and I allegedly held, and you can imagine the impact this and so much else like it had on LBJ, who made the original request, the AGs and their assistants to whom copies were sent, the lawyers who defended my cases, etc.) As I'm sure I once wrote you, official perjury was commonplace, exposed in court and ignored by the judges and the press. Now, however, I've moved this matter of official perjury into a different and I think more significant posture in a FOIA case I filed in 1978, yes, that long ago, and in which, because those creatures fabricated a phony conflict of interest with my lawyer and ~~his~~ friend, I'm now pro se and before the appeals court. (He is Jim Lesar, 202/393-1921, and I'm sure he'll tell you I do not exaggerate.)

Without ever making the required initial searches in this litigation, the FBI demanded and got a discovery order, without precedent ^{at} under FOIA and it's de facto end if I do not prevail. There are legitimate and recognized grounds for opposing discovery and I invoked a number of them that were pertinent. There also were special reasons. In no instance did the FBI/DJ offer any contradictory evidence or make any attempt to refute what I provided under oath. One is that the ~~demanded~~ ^{demanded} discovery, for "each and every" document and reason addressing FBI noncompliance, was clearly excessive and unnecessary and beyond my physical capabilities. Another is that I had already, voluntarily, provided all the information and documentation of which I was aware - at least two full file drawers of a total of eight full file drawers I provided in two lawsuits. (The Reaganified appeals office wrote me separately that nobody had ever provided that much information and documentation.) And, of course, how could any honest person swear to having located and copied each and every pertinent record from about 60 file cabinets in which it is scattered. The physical impossibility part I went into in considerable detail ^{above} and under oath and myself subject to perjury after

some particularly nasty and doubting comments by the DJ lawyer.

I am 73 and have been in seriously impaired health for more than a decade. In 1975 - and all this was known to the FBI - I was hospitalized for acute thrombophlebitis in both legs and thighs, with the damage extensive and beyond repair. In 1977 arterial obstructions were diagnosed, in 1980 I had arterial surgery, and there were two post-surgical complications, the second not uncommonly fatal, a total blockage on the left side. As a result my health is far from good, I'm severely limited in what I can do, I have difficulty using stairs and can't use them often (most of the files are in my basement, as the FBI and DJ also know), I can't stand still at all, which restricts my ability even to use files, I must keep my legs elevated when I'm not walking and then walk around a bit every 20 minutes or so (I can usually walk about a city block, sometimes twice that much but no more), and I live on a high-level of anticoagulant which can make a simple cut or fall very dangerous, even fatal. Almost a decade ago, when the FBI wanted to confer with me in other litigation, it had to park my lawyer's car inside the J. Edgar Hoover Bldg., I was then so weak and so limited even in walking. The Civil Division has been aware that long, too. But their personal knowledge was immaterial to these nazi-like creatures and the judge ignored it all, as he usually does when the defendant is the FBI. (Even when in order for me to be there for oral argument this past January, when I got a friend to drive me to Washington, he approved my using a ~~motorized~~ wheelchair in the courtroom because I cannot stand and arranged for special parking at the courthouse door because without that I could not get to his courtroom.)

When I did not comply with this phony "discovery" the DJ lawyer ^{on} threatened to have me cited for contempt. My response, through Lesar, was to dare him to do it. I knew they do not dare any trail of any kind, any proceeding that might attract some attention. So, he switched to demanding money damages, for the time allegedly spent in seeking discovery. John Lewis Smith flailed his rubberstamp again and I responded through Lesar for them to come out to Maryland and collect it. They haven't and I'm inclined to believe they never will if it means any kind of public proceeding. The Reaganized appeals court rubber-stamped and remanded because they hadn't the required records and for other reasons. Before we went up on appeal, when I didn't pay the costs demanded, they moved for and got a money judgement against Lesar, fabricating an impossibility to get it and getting away with that, too. In their representation to the appeals court I was some kind of never clearly defined Svengali who asserted an evil influence on Lesar, who ought be disbarred for it, and the district court judge "closely observed" this "for the five years of the litigation." As the case records shows, I wasn't before Smith with Lesar in this case a single time and as my medical records in the case record show, my getting there was impossible.

It happens that for the period in question I suffered a rather large and for me exceptional series of other illnesses, including pneumonia and pleurisy twice, and that further limited what I was able to do. And since the last emergency surgery I've been required to spend three hours a day in an effective therapy, now become commonplace and I think as a generality an interesting feature. I was told to go to a nearby mall, less than a ten-minute drive (I've not been able to drive out of Frederick for a decade and my driving is limited to about 20 minutes, and to walk until the lack of oxygen in the leg and thigh causes pain. Then I sit with my leg elevated until the pain is gone and then I walk again, etc. For three hours a day. Following different surgery this past January I'm to lie flat on my back for two hours a day with the legs elevated. (So, in defending myself, the Act and several principles, I begin with most of a working day gone.) I understand that now malls in general permit this, early entry, etc., and that doctors are prescribing it often. At "my" mall there are more than a dozen elderly people and fewer young ones who are at this daily before the mall opens for business.

On remand I invoked Federal Rule 60(b), having to do with new evidence. This is

what gets to the present and I believe quite exceptional posture of the case. Under this rule relief from a judgement is available under stated conditions. These include what without refutation—even without pro forma denial— I have alleged and proved with the FBI's own records. To get the discovery order the FBI alleged, my shorthand, that the discovery would enable them to prove that they had complied with my requests, and in the alternative, my subject-matter expertise is required for them to locate any pertinent and withheld records. Their major affiant is FBI SA John N. Phillips, a supervisor in the FOIPA part of FBIHQ. Now it just happened that this same Phillips is also the supervisor in a lawsuit filed by a friend, Mark Allen. In the Allen case, before a different judge who compelled FBI performance, and after my case was on appeal, Phillips himself disclosed to Allen what proves that to get the judgement against me the FBI and DJ resorted to perjury, fraud and misrepresentation. The case record holds the documentation. It is not just my word or my interpretation. This is why there cannot be any refutation and I think the reason there is no pro forma denial is because that would complicate their felonies even more. Naturally, Smith ignored all of this and argued for the FBI/DJ what they didn't even argue themselves. He held that these undenied felonies did not defraud him, ignoring my claim that I was defrauded by them (Imagine a court even pretending that it can function when one side presents not a word other than proven perjury!), and besides, they were only "cumulative."

There is more but this ought be enough to show that it is unusual that the FBI and DJ are so charged, that they do not even bother to try to deny these charges, and that the courts today reward felonious misconduct. (If I can find some of the documents that I think in themselves might be newsworthy I'll include copies.)

I made at least a half-dozen approaches to the Post, without response, except from a reporter who knows me well and says there is no news in this. Ditto for the NYTimes. I sent copies of the pleadings of both sides to them and to perhaps 30 others, including the nets and wires services. Without any other response, only that undenied official felonies are not today news. Maybe with Deaver, but as you saw, lying by Supreme Court nominees also is not so described now.

In the late 1930s I was a Senate investigator and I can't imagine that no Senator and no staffer thought to ask Scalia, when his anti-FOIA words were read back to him and he pretended that in his decisions he broadened rights under FOIA, what his record was in government cases limited to his former employer; and with regard to his condemnation of what in the Act helps get better government, some of what came out (because Congress amended that exemption over me) about the evils of the CIA and FBI — exposed when he was head of the Office of Legal Counsel. But this, as I'm having difficulty believing, is the state of our land today.

Of course it would have been much easier for me to just pay the judgement, but that would make me party to evil and require abdication of which I'm not yet capable. It would assure evil and restrictive precedent. (Today it will take about three months of my only income, Social Security.) After these illnesses I tried to dismiss the litigation (with prejudice against myself but subject to the rights of others to seek what was not disclosed to me) and the FBI/DJ rejected that offer out of hand. Can you imagine what, with only one precedent, this alleged discovery, will remain of FOIA if the government can demand and expect to get "discovery" when it wants not to disclose? Can you imagine the costs for wealthy and corporate litigants? Ordinary people will be automatically foreclosed. So, I have to try and I will resist as long as I am capable of it. Otherwise I become part of the Reaganite restriction on information, too. So, I hope you can see some news interest in this because I believe that with some public attention, which such matters rarely get, the pending evil may be defeated. I don't think the judges will do as they have done with a little light in those almost always darkened chambers. Thanks for anything you may do, my apologies for this terrible typing (I'm now always sideways to the mill), and if you'd like to see the enormity of what I've compiled for this university archive, we are about an hour from your home.

Best wishes,

Heald

4

I found these pages of an FBIHQ tickler on my desk. They and more, with explanations, are in the case record. I do not take more of your time to show their pertinence in what I charged, save that Phillips swore with regard to ticklers that the FBI destroys them "routinely" after a matter of days and this one is more than 20 years old and still in file.

That the FBI prepared "dossiers" on the eminences of the Warren Commission has never been reported. Nor has it that the FBI twice prepared dossiers on the staff, also mostly eminences now, including a Senator. There is relevance in the litigation to those prepared "sex dossiers" on the critics because Phillips swore there was nothing on the critics and all on us had been ordered to be processed for disclosure by the Deputy AG.

The FBI's own characterization of its "investigation" is new to one familiar with its record only in the admission of it. They never investigated the crime itself. Only Oswald/ was investigated, if that is the right word for what they did and did not do. (I'm not trying to argue with you when I assure you that the actual Oswald is not the person described in the official and released records and he had a to me fascinating record in the Marines, also undisclosed publicly. I got it from the Navy, not the FBI.)

The FBIHQ knew and "handled" the long-suppressed matter of Oswald's threatening letter, at threat to bomb the FBI or the police, from the FBI's later internal investigation. This was the day Ruby killed Oswald. (Never told Commission.)

This appears to be a damage assessment tickler but I don't know that to be a fact. Except for the paperclips I added for my own reasons in my own work this is as I received it.

This and more like it, which I used as exhibits, was part of what I sent to about 30 in the press who got all that was filed by both sides.

If any of this interest you and you want identification of the names or anything like that, please let me know.

HW